

Guidance on the Baseline Monitoring Report (BMR) and General Pretreatment Regulation Requirements

Introduction

Appendix E includes guidance from EPA on requirements of the Baseline Monitoring Report (BMR) and general pretreatment requirements. This appendix comprises two attachments that consist or or are excerpted from already issued EPA guidance.

Attachment 1 is an excerpt from the EPA Pretreatment Bulletin #13, which discusses the applicability of categorical pretreatment standards in specific situations, including zero discharge industrial users. A PFPR facility is a categorical industrial user (CIU) and is subject to the PFPR regulations of “no discharge of wastewater pollutants” (or the P2 alternative) when there is a potential to discharge any of the PFPR process wastewater covered by the PFPR regulation. If the only wastewater that a PFPR facility discharges (or has the potential to discharge) is not a regulated process wastewater under the PFPR effluent guidelines, then the PFPR facility is not covered by the PFPR effluent guidelines and the facility is not a CIU for that discharge for purposes of 40 CDR Part 403 (General Pretreatment Standards). Attachment 1 provides more detail on the definition of potential to discharge for industrial users.

Attachment 2 is a copy of a memorandum from the Engineering and Analysis Division and the Permits Division with EPA’s Office of Water to the Water Management Division Directors of all 10 EPA regions, discussing the Baseline Monitoring Report requirements for PFPR facilities. The memorandum briefly discusses the background of the PFPR rule, the issues associated with complying with both the P2 alternative and BMR requirements, and guidance for PFPR facilities in fulfilling the BMR requirements until the General Pretreatment Regulations can be modified to accommodate the PFPR compliance requirements.

ATTACHMENT 1: APPLICABILITY OF CATEGORICAL PRETREATMENT STANDARDS TO “ZERO-DISCHARGE” INDUSTRIAL USERS*

The Environmental Protection Agency (EPA) recently issued guidance concerning the applicability of categorical pretreatment standards to zero-discharge industrial users (IU) in a letter from Jeffrey Lape, Acting Chief, Pretreatment and Multimedia Branch, to Robert Babcock, Pretreatment Field Support Unit, Michigan Department of Natural Resources, dated April 16, 1993. If an IU is subject to categorical pretreatment standards, it satisfies one of four criteria for an IU to be deemed a significant industrial user (SIU) as defined by 40 CFR Part 403.3(t). Once defined an SIU, minimum requirements are established for the control authority (e.g., issuance of an individual control mechanism, annual inspection and monitoring).

An SIU includes “All industrial users subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR Chapter I, Subchapter N” (40 CFR Part 403.3(t)(1)). For this purpose, an IU is deemed to be a categorical industrial user (CIU) when it meets the applicability requirements for a specific category and is subject to pretreatment standards for existing sources (PSES) or pretreatment standards for new sources (PSNS).

Although there are many industrial categories with promulgated effluent guidelines and standards, not all contain PSES or PSNS requirements. Where an IU falls within a promulgated industrial category that only provides reference to the general pretreatment provisions in 40 CFR Part 403 (or its predecessor, Part 128), this alone would not be considered PSES or PSNS requirements, and the IU would not be considered to be subject to categorical pretreatment standards. This position was articulated in Pretreatment Bulletin #3 (November 6, 1987) and in a memorandum entitled “Non-Consent Decree Categorical Pretreatment Standards” from James Elder, Director, Office of Water Enforcement and Permits, dated August 24, 1988.

The following address the applicability of categorical pretreatment standards in specific situations, including zero-discharge IUs.

1. Where an IU operates a categorical process, but no regulated process wastewater is discharged or has the potential to be discharged to the publicly owned treatment works (POTW), should the IU be considered a CIU, and therefore an SIU, even if it discharges other unregulated process or sanitary wastes?

Answer: No. If the only wastestream that an IU discharges or could potentially discharge to the POTW is not subject to PSES or PSNS requirements, it is not a CIU for purposes of that discharge or for purposes of 40 CFR Part 403. An example of this situation would be a metal finisher that discharges its sanitary wastes to the POTW and all of its regulated process wastewater to a receiving water under a National Pollutant Discharge Elimination System (NPDES) permit. This facility would not be considered a categorical industry for purposes of the SIU definition since no PSES or PSNS requirements would apply. Of course, noncategorical IUs are still subject to the General Pretreat-

*Reprinted from the U.S. EPA Pretreatment Bulletin #13, October 1993, Office of Wastewater Enforcement and Compliance.

ment Regulations and local limits, may warrant periodic inspection and monitoring by the control authority, and may be considered an SIU because of the other criteria in 40 CFR 403(t).

An important example to consider here would be a metal finisher that performs any one of the six primary qualifying operations for which there is no potential to discharge at any time but also performs one of the 40 ancillary process operations for which there is a corresponding indirect discharge. This facility would be considered a categorical industry because PSES or PSNS requirements would apply to the regulated wastestream from the ancillary process. This position has been articulated in a letter from Baldwin Jarrett, U.S. EPA, to Grace Scott, Michigan Department of Natural Resources, dated April 28, 1992.

2.A. If a categorical pretreatment standard requires testing or a certification statement (i.e., certification that a particular pollutant or process is not used, as in the case of paper and pharmaceutical standards) and a facility certifies that it does not use the pollutant of concern, is it still a CIU?

Answer: Yes. These are specific PSES and PSNS requirements and an IU that meets the applicability requirements of the categorical standard would be considered a CIU and thus an SIU.

2.B. Is the certification a one-time statement, or is it required as part of the categorical industry's continued compliance report?

Answer: If the categorical pretreatment standard requires a testing or certification statement, the CIU must report and certify that it is not using the pollutant of concern, and this must be done semiannually as required by 40 CFR Part 403.12, unless specified otherwise by the categorical pretreatment standard. This certification provision only applies where prescribed by a categorical pretreatment standard. Any IU that is subject to a categorical pretreatment standard (PSES or PSNS) that does not contain a certification requirement must sample and report on all regulated pollutants at least twice per year even if it is not using the pollutant of concern.

3. If an IU is subject to a categorical pretreatment standard which provides a requirement of "no discharge of pollutants," or similar requirement, is the IU considered a CIU?

Answer: Yes, provided that there is a potential to discharge a wastestream that is subject to the standard. There are a number of categorical pretreatment standards which have PSES or PSNS requirements that contain such language. An IU subject to this particular PSES or PSNS requirement is considered a CIU, and thus an SIU. However, if the only wastestream that an IU discharges or could potentially discharge to the POTW is not subject to PSES or PSNS (i.e., sanitary wastes), then the analysis would be as set forth in question 1 above and the facility would not be considered a CIU. This further develops the position articulated in the memorandum referred to above from James Elder, dated August 24, 1988, and another memorandum from James Elder, dated February 16, 1989, entitled "Conventional Pollutants Regulated by Categorical Pretreatment Standards."

4. If a facility has a regulated process wastestream and employs a treatment system that results in 100% recycle, is it considered a CIU?

Answer: The situation here is essentially the same as in question 1. If the IU uses a 100% recycle of regulated process wastewater and does not have the potential to discharge regulated process wastewater to the POTW, the IU would not be considered a CIU.

CIUs that employ a 100% recycle or claim no discharge of regulated process wastewater should be thoroughly evaluated through an on-site inspection to determine if there is any reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement due to accidental spills, operational problems, or other causes. If the control authority concludes that no regulated process wastewater can reach the POTW, and therefore, the IU has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the IU need not be designated a CIU and thus an SIU, as provided by 403.3(t).

As a precaution, however, even if the control authority determines that a zero discharge facility is not a CIU, it is suggested the control authority issue a permit (or equivalent individual control mechanism) to the facility containing at least the following conditions:

- "No discharge of process wastewater is permitted."
- Requirements to notify the POTW of any changes in operation resulting in a potential for discharge.
- Requirements to certify semiannually that no discharge has occurred.
- Notice that the POTW may inspect the facility as necessary to assess and assure compliance with the "no discharge requirement."
- Requirements to comply with Resource Conservation and Recovery Act (RCRA) and state hazardous waste regulations regarding the proper disposal of hazardous waste.

If you have any questions concerning this guidance, please contact: Permits Division (4203), U.S. EPA, 401 M Street, SW, Washington, DC 20460, (202) 260-9545.

ATTACHMENT 2: BASELINE MONITORING REPORT REQUIREMENTS FOR PESTICIDE FORMULATING, PACKAGING, AND REPACKAGING FACILITIES

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 3 1997

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Baseline Monitoring Report Requirements for Pesticide Formulating, Packaging and Repackaging Facilities

FROM: Sheila Frace, Acting Director
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Sheila E. Frace

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Permits Division

James F. Pendergast

TO: Water Management Division Directors (Region 1-10)

Background

The Pesticide Formulating, Packaging and Repackaging (PFPR) final effluent guidelines and pretreatment standards were published in the Federal Register on November 6, 1996 (61 FR 57518) and became effective on January 6, 1997. The pretreatment regulations at 40 CFR 403.12(b) require PFPR facilities discharging to Publicly Owned Treatment Works (POTWs) to submit a Baseline Monitoring Report (BMR) within 180 days of the effective date of the rule (July 7, 1997). One of the requirements of the BMR is for the facility to "submit the results of sampling and analysis identifying the nature and concentration ... of regulated pollutants in the Discharge from each regulated process."

The final PFPR regulation provides PFPR facilities a choice between zero discharge and a pollution prevention (P2) compliance alternative (referred to as the "P2 Alternative"). The P2 Alternative measures compliance against a set of pollution prevention, recycle and reuse practices as well as the demonstration of "well operated and maintained" treatment system. The P2 Alternative does not include numerical standards for pesticide active ingredients (PAIs) that are within the scope of the regulation; and therefore, does not specifically include monitoring requirements.

Issues

The PFPR rule is the first rule of its kind to include a P2 compliance alternative. For this reason the BMR requirements in 40 CFR 403.12 do not directly address a situation where compliance is measured through a P2 Alternative rather than a numerical standard and corresponding monitoring.



Recently, industry representatives, state coordinators, and POTW pretreatment personnel have requested guidance on how to comply with the BMR requirements for those facilities choosing the P2 Alternative.

We recognize that in order to address this situation, ultimately, the regulation requiring submittal of the BMR (403.12(b)) will need to be modified. We plan to make these modifications as part of the larger streamlining initiative that is currently underway. However, such modifications will not be finalized prior to the BMR submittal date of July 7, 1997.

We have developed the following guidance in order to assist these facilities prior to the modification of the Pretreatment Regulations.

Guidance

In order to comply with the requirements of 40 CFR 403.12(b)(5), an Industrial User (IU) subject to the PFPR pretreatment standards (40 CFR 455), should submit a BMR containing the following: (1) information on the sampling and analysis of priority pollutants (see 40 CFR 423, Appendix A); (2) identification of PAI(s) which the IU expects to have in the discharge in the next 12 months; and (3) a list of the P2 practices, if any, the IU currently engages in which affect the discharge of PAIs and priority pollutants. Note that the IU must still comply with the other sections of 403.12(b).

For additional information, contact Shari Zuskin at (202) 260-7130 or Patrick Bradley at (202) 260-6963.

cc: Regional Pretreatment Coordinators (Region 1-10)
Susan Lepow, OGC-Water